S.B. CIVIL MISC. APPEAL NO.1589/2007
(Sukh Singh & ors. Vs. Hanif Khan & ors.)

Date of Order :: 26th July 2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Manish Pitaliya for the appellants.

For quantification of compensation to be awarded to the dependents of about 40 years old vehicular accident victim Gopal Singh, the Tribunal has found that the victim was earning as a labourer and has put an estimate on his income at Rs.3,000/- per month; and after deducting one-third wherefrom has taken loss of dependency at Rs.2,000/- per month i.e., Rs.24,000/- per annum; and with application of multiplier of 15, has assessed pecuniary loss at Rs.3,60,000/-. The Tribunal has further allowed Rs.10,000/- to each of the seven claimants towards non-pecuniary loss, yet further Rs.10,000/- to the wife of the victim towards loss of consortium, and another Rs.2,000/- towards funeral expenses and Rs.3,000/- towards loss of estate; and in this manner has assessed total loss in the sum of Rs.4,45,000/- (3,60,000/- + 80,000/- + 2,000/- + 3,000/-). While making the award in this sum in favour of the claimants, the Tribunal allowed interest at the rate of 6% per annum from the date of filing of the claim application. The claimants seek enhancement in this appeal.

Learned counsel for the appellants has strenuously contended that in view of seven number of dependents of the victim, the Tribunal has been in error in deducting one-third on the personal expenditure of the deceased and the multiplicand taken by the Tribunal at Rs.24,000/- stands much on the lower side.

The submission is not well founded nor the ultimate award amount could be said to be low or inadequate. The appellants Nos.1 and 2 are the parents of the victim, appellant No.4 is 22 years old daughter of the victim whereas appellant No.5 is 19 years old son of the victim. In the overall family set up, the Tribunal cannot be said to have erred in taking two-third of the estimated income of the deceased towards loss of dependency of the claimants. With application of reasonable multiplier of 15, the Tribunal assessed pecuniary loss to the tune of Rs.3,60,000/- that does not appear to be insufficient in the facts of this case.

Moreover, in this case the Tribunal has proceeded to award non-pecuniary loss to the tune of Rs.80,000/- in all and thereby, the ultimate award has been made in the sum of Rs.4,45,000/-

When the Tribunal has made reasonable estimate of pecuniary loss but then has allowed rather excessive amount towards non-pecuniary loss, this Court is of opinion that the ultimate award amount of Rs.4,45,000/- could only be said to be rather on the higher side that rules out any scope for enhancement.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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